IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.764 of 1998

Shri Yogendrasingh Shivlingsingh)
residing at Rajaram Yadav Chawl,)
Behind Nandini Lad Hospital,)
Ulhasnagar-421 001.)..Petitioenr

Versus

1. The Head Master, Hindi)
Pracher Mandal's Hindi School)
Ramnagar, Dombivli (E), Dist.)
Thane.)
2. The Secretary,)
Hindi Prachar Mandal, Ramnagar)
Dombivali (East) Dist. Thane)
3. Hindi Prachar Mandal, Ramnagar)
Dombivali (Est), Dist. Thane)
through its Secretary,)
4. Administrative Officer,)
Municipal School Board, Kalyan)
Municipal Corporation, Kalyan)
5. Dy. Director of Education,)
Nashik Region,l Nashik)
6. State of Maharashtra)..Respondents

Mr. M.V. Limaye with R.S. Apte, for the Respondents
Mr. A.G.Kothari, for the Respondent No.2.
Mr. A.P. Vanarshe, AGP for the Respondent No.6.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 12th April,2005

JUDGMENT (PER F.I. REBELLO, J.)

. The services of the petitioner were terminated. An appeal was preferred. That came to be allowed by order dated 8th April, 1993. The petitioner was initially appointed as Assistant Teacher in the primary school with effect from 15th June, 1988. His services were terminated by order dated 30th March, 1989. On reopening he was again appointed in the academic year 1989-90. The appointments were continued in a similar manner. It was the case of the petitioner that since 1988 he was being paid only Rs.800/-. It was the case of the petitioner that he was not allowed to resume on duty on 8th

July, 1992. It was his case also that his appointment was against a clear and permanent vacancy. By the impugned order the learned Tribunal held that the petitioner was appointed on a clear and permanent vacancy with effect from June, 1988 and as such he became a deemed permanent employee and for non-compliance of the Rules set aside the order of termination and directed reinstatement with further direction to pay the difference of emoluments including pay and allowances from the date of termination of his services till he is reinstated. As the respondents failed to comply with some of the directions a Contempt Petition was filed being Contempt Petition No.122 of 1996. A learned Judge of this Court on 18th June, 1996 recorded a statement that substantial payment had been made except for a period of one month and 19 days.

. By the present petition the petitioner has prayed that the back wages for the period from 12th June, 1993 to 2nd August, 1993, and the bonus for 1992-93, be paid to him and to fix the petitioner's salary in the pay scale of Rs.1400-2600 and give him benefits of total 9 increments upto 15th June, 1997 by fixing his pay at the proper stage and grant him consequential reliefs.

2. After hearing the learned Counsel for the petitioner and considering the order of the Tribunal dated 8th April, 1993 we see no reason as to why the petitioner should not be entitled to the reliefs as prayed for. We, therefore, pass the following order;-

(i) The respondent Nos. 1, 2 and 3 are directed within 12 weeks from today to pay to the petitioner the back wages for

the period from 12th June, 1993 to 2nd August, 1993 and bonus for 1992-93, if not paid already.

(ii) The respondents are further directed to fix the petitioner's pay at the time of his appointment in the scale of Rs.1400-2600/- and to give him all the increments which he is entitled to including revision of pay scales from time to time and after so fixing the pay, to pay and pay the arrears and all other consequential benefits arising therefrom. This entire exercise should be completed within 12 weeks from today.

(iii) If the respondent Nos. 1, 2 and 3 fail to comply with the above directions the respondent NO.5 is directed to fix the petitioner's pay and increments in terms aforestated and if the respondent Nos. 1 to 3 do not pay the arrears then to deduct the same from the grants received by the respondents other than salary grants and to pay to the petitioner all benefits which he is entitled to within a period of six months from today.

(iv) Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)